



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*United States Courthouse
300 Quarropas Street
White Plains, New York 10601*

September 15, 2017

BY EMAIL

Counsel for Nicholas Tartaglione

Re: *United States v. Nicholas Tartaglione, S3 16 Cr. 832 (KMK)*

Dear Counsel:

The Government writes in response to your letter of August 23, 2017. In that letter, you request the evidence “that supports the Government’s conclusion that Mr. Tartaglione was not present during the shootings and deaths of three of the victims in this case.” Respectfully, the Government does not believe that you are entitled to that information.

In our letter of July 20, 2017, we informed you that, subject to our continuing investigation and based on the evidence presently available to the Government, the Government believes that Mr. Tartaglione was not present when Urbano Santiago, Miguel Luna, and Hector Gutierrez were shot and killed. This conclusion is based upon the Government’s evidence, including both Rule 16 discovery (which has been provided to you) and the anticipated testimony of witnesses (which will be provided to you in advance of trial), how the Government believes that various pieces of evidence fit together, and the inferences that the Government is drawing from that evidence. The Government is not aware of any authority requiring it to disclose the basis for its conclusion, whether under *Brady*, *Kyles*, or otherwise.

Very truly yours,

JOON H. KIM
Acting United States Attorney

By: /s/ Michael Gerber
Maurene Comey
Michael Gerber
Assistant United States Attorneys